

Vendor Contract No. \_\_\_\_\_

**STATE OF TEXAS  
DEPARTMENT OF INFORMATION RESOURCES**

**CONTRACT FOR  
MANAGED SERVICES FOR INFORMATION TECHNOLOGY**

**Verizon Business Network Services, Inc.  
on behalf of applicable Verizon entities**

**1. Introduction**

**A. Parties**

This Contract for services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15<sup>th</sup> Street, Suite 1300, Austin, Texas 78701, and Verizon Business Network Services, Inc. on behalf of applicable Verizon entities (hereinafter "Vendor" or "Verizon"), with its place of business at 701 Brazos Street, Suite 600, Austin, TX 78701.

**B. Compliance with Procurement Laws**

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-SDD-TMP-091, on December 8, 2006, for Managed Services for Information Technology. Upon execution of this Contract, a notice of award for RFO DIR-SDD-TMP-091 shall be posted by DIR on the Electronic State Business Daily.

**C. Order of Precedence**

This Contract; Appendix A, Standard Terms and Conditions For Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Verizon Business Service Agreement; Exhibit 1, Vendor's Response to RFO DIR-SDD-TMP-091, including all addenda; and Exhibit 2, RFO DIR-SDD-TMP-091, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

**2. Term of Contract**

The term of this Contract shall be three (3) years commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend this Contract, upon mutual written agreement, for up to two (2) optional one-year terms.

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**3. Service Offerings**

Services available under this Contract are limited to designated telecommunications managed services as specified below. Vendor may incorporate changes to their services offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

**A. Technology Services**

- a. Management of call processing architecture
- b. IP Telephony Services
- c. IP Call Center or Contact Center Services
- d. IVR/Auto-Attendant
- e. Legacy Voice Systems Management or Integration
- f. Data and Voice Networking Solutions and Management

**B. Support Services**

- a. MAC's
- b. Solution Software and Licenses
- c. Break/Fix and Maintenance
- d. Help/Support Desk Services
- e. Training

**C. Management Services**

- a. Hosted Solutions
  - i. System Design and Implementation
  - ii. Operations
- b. Requirements Development
- c. Project management
- d. Integration Services
- e. Network Readiness Assessment
- f. SLA's and Performance Metrics
- g. Reporting
- h. Transition and Termination Services

**D. Excluded Service Offerings**

- a. Any access services included in DIR TEX-AN or Go DIrect Contracts
- b. Transport other than the TEX-AN 2000 or MPLS Network
- c. Long Distance Services
- d. Internet Services

**4. Pricing****A. Manufacturer's Suggested Retail Price (MSRP).**

MSRP is defined as the sales price suggested by the manufacturer or publisher of the service.

**B. Customer Discount.**

The minimum Customer discount for all services will be the percentage off MSRP as specified below.

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Customer Discount includes the DIR administrative Fee specified in Section 5.

Service Category	Customer Discount
Technology Services	10%
Support Services	10%
Management Services	10%

### C. Customer Price

1) The price to the Customer shall be calculated as follows:

$$\text{Customer Price} = \text{MSRP} - \text{Customer Discount}$$

2) Customers purchasing services under this Contract may negotiate more advantageous pricing or participate in special promotional offers. In such event, a copy of such better offerings shall be furnished to DIR upon request.

3) If pricing for services available under this Contract are provided at a higher discount to: (i) an eligible Customer who is not purchasing those services under this Contract or (ii) any other entity or consortia authorized by Texas law to sell said services to eligible Customers, under a separate contract with the same or similar terms and conditions, then the available discounts in this Contract shall be adjusted to that higher discount. This Contract shall be amended within ten (10) business days to reflect the higher discounts.

### D. DIR Administrative Fee

The administrative fee specified in Section 5 below shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

### E. Tax-Exempt

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j).

### F. Travel Expense Reimbursement

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized by the current State Travel Regulations. Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in Section 5 below is not applicable to travel expense

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reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer.

#### **H. Changes to Prices**

Vendor may change the price of any service at any time, based upon changes to the MSRP, but discount levels shall remain consistent with the discount levels specified in this Contract. Price decreases shall take effect automatically during the term of this Contract and shall be passed onto the Customer immediately.

#### **5. DIR Administrative Fee**

**A)** The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent (0.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.

**B)** All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon thirty days written notice to Vendor. Any change in the administrative fee shall be incorporated in the price to the Customer.

#### **6. Notification**

All notices under this Contract shall be sent to a party at the respective address indicated below.

##### If sent to the State:

Sherri Parks, Director  
Contracting & Procurement Services  
Department of Information Resources  
300 W. 15<sup>th</sup> St., Suite 1300  
Austin, Texas 78701  
Phone: (512) 475-4700  
Facsimile: (512) 475-4759  
Email: sherri.parks@dir.state.tx.us

##### If sent to the Vendor:

Attn: Vice President, Legal  
Verizon Business Services  
22001 Loudoun County Parkway  
Ashburn, VA 20147  
Phone: ( ) -  
Facsimile: ( ) -  
Email: notice@verizonbusiness.com

##### Also send to:

Verizon Business Services  
20855 Stone Oak Parkway  
San Antonio, Texas 78258  
Phone: ( ) -  
Facsimile: ( ) -  
Email: notice@verizonbusiness.com

#### **7. Service Agreement**

Services provided under this Contract shall be in accordance with the Verizon Business Service Agreement as set forth in Appendix C of this Contract. No changes to the Verizon Business Service Agreement terms and conditions may be made unless

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previously agreed to by Vendor and DIR. A Customer's purchase order is intended solely to evidence the Customer's intention to purchase the Services set forth herein. Except with respect to a provision in a Customer purchase order evidencing an intent to be bound by the terms of this Contract, the terms and conditions of such Customer purchase order shall be disregarded and of no force or effect, it being agreed that the terms and conditions of this Contract shall govern.

**8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts.**

**A. Section 3. General Provisions, F. Choice of Law** is hereby replaced in its entirety as follows:

The laws of the State of Texas shall govern the construction and interpretation of the Contract without regard to its choice of law principles. Nothing in the Contract or its Appendices shall be construed to waive the State's sovereign immunity.

**B. Section 6. Contract Administration, C. Records and Audit, 3)** is hereby replaced in its entirety as follows:

3) Vendor shall grant access to all paper and electronic records, books, documents, accounting procedures, practices and any other items relevant to the performance of the Contract to DIR, including the compliance checks designated by DIR, the State Auditor's Office and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking and/or copying such books and records. Vendor shall provide copies and printouts requested by DIR without charge. DIR shall provide Vendor ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Vendor's records. Vendor's records, whether paper or electronic, shall be made available during regular office hours. Vendor personnel familiar with the Vendor's books and records shall be available to DIR staff and designees as needed. Vendor shall provide adequate office space to DIR staff during the performance of Compliance Check. Verizon shall have the right to redact such records as necessary to protect the confidential and proprietary information of Verizon, its vendors and other customers. Verizon further reserves the right to require all designated audit representatives to comply with Verizon's standard security procedures while on Verizon premises.

**C. Section 7. Vendor Responsibilities, A. Indemnification, 2. Acts or Omissions** is hereby replaced in its entirety as follows:

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any negligent acts or omissions of the Vendor or its agents, employees, subcontractors, or suppliers of subcontractors in the

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execution or performance of the Contract and any Purchase Orders issued under the Contract. VENDOR SHALL PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS FEES. THE DEFENSE SHALL BE COORDINATED BY THE OFFICE OF THE ATTORNEY GENERAL FOR TEXAS STATE AGENCY CUSTOMERS AND BY CUSTOMER'S LEGAL COUNSEL FOR NON-STATE AGENCY CUSTOMERS.

**D. Section 7. Vendor Responsibilities, A. Indemnification, 3. Infringements** is hereby replaced in its entirety as follows:

1) Verizon, at its expense, will indemnify Customer from and against any third party claim, action, suit, or proceeding ("Claim") alleging that the Verizon transport network or any technology developed by Verizon and provided to Customer hereunder (individually a "Service" and collectively the "Services"), when used in conformity with all applicable written instructions and documentation, infringes any U.S. patent, U.S. trademark, or U.S. copyright or constitutes misappropriation of a trade secret under U.S. law. Verizon will indemnify Customer for damages finally awarded against Customer or agreed to by Verizon in settlement of such Claim, and for Customer's reasonable costs incurred as a result of such Claim. State agency Customers shall be represented by the Office of the Attorney General of Texas who may allow Verizon to take the lead in the litigation. Verizon shall have the right to defend, countersue, or settle any such Claim and to collect all damages, costs, fees, and other charges awarded from any such Claim related to non-state agency Customers. Verizon's obligation to defend and indemnify, as limited previously, Customer on a Claim is contingent upon:

(a) Customer providing Verizon prompt (but in no event more than thirty (30) days after Customer receives notice of a Claim or potential Claim) written notice of any Claim or potential Claim; and

(b) Customer providing Verizon, at Verizon's expense, all information and assistance requested by Verizon to settle, defend, or bring a counter-suit in conjunction with any Claim;

2) Notwithstanding anything to the contrary herein, Verizon shall have no obligation to defend or indemnify Customer for any Claim arising out of or relating to:

(a) designs or specifications provided by Customer;

(b) modifications to any Service or product provided hereunder made by or on behalf of Customer where but for such modifications there would have been no Claim of infringement or misappropriation;

(c) use of any Service or product provided hereunder in combination with any other products or services where but for this combination there would have been no Claim of infringement or misappropriation; or

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(d) transmission of Customer supplied content, data, or other information. Customer shall defend, indemnify and hold Verizon harmless from and against any claims covered by exclusions (a) – (d) set forth in this subsection.

3) If Customer's indemnified use of any Service is enjoined or otherwise prohibited, or if Verizon reasonably believes that there exists a threat of the same, Verizon shall have the right, in its sole discretion and at its expenses, in addition to its indemnification obligations above, to:

- (i) obtain for Customer the right to continue to use the affected Service; or
- (ii) replace the affected Service with a non-infringing service; or
- (iii) modify the affected Service so that it becomes non-infringing; or
- (iv) terminate provision of the affected Service and/or terminate this agreement, provided that in no event shall Customer incur any early termination charges pursuant to this Agreement for such termination.

4) Notwithstanding any otherwise applicable limitation of liability, the Parties agree that the aggregate liability of Verizon and its affiliates to Customer in fulfillment of all obligations of indemnity and all other obligations pursuant to this Section shall not exceed the total amount of monies paid by Customer to Verizon pursuant to this Agreement during the twelve (12) consecutive month period preceding the date on which Verizon is given notice of the most recent Claim.

5) This section sets forth the sole and exclusive remedy of Customer, and the entire obligation and liability of Verizon, as to any Claims of infringement or misappropriation of third party rights in connection with any Services, products, or other deliverables provided hereunder.

**E. Section 7. Vendor Responsibilities, K. Limitation of Liability** is hereby replaced in its entirety as follows:

For any claim or cause of action arising under or related to the Contract: i) none of the parties shall be liable to the other for indirect, punitive, special, or consequential exemplary, incidental or punitive damages, including without limitation loss of use or lost business, revenue, profits, or goodwill, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action.

**F. Managed Services Requirements**

1. Vendor shall prepare and provide each customer with a managed service solution proposal. The proposal shall include all services proposed by Vendor which are included in this contract, as well as all Excluded Service Offerings and associated fees as required for a Customer to contract for a complete solution. Any Excluded Service Offerings must be procured by the customer through either the DIR TEX-

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AN or DIR Go DIRect contracts. Vendor shall ensure any needed TEX-AN and/or Go DIRect contracted services are purchased by Customers as a part of the solution project management. Vendor acknowledges that Assistance Organizations as defined in Appendix A, Section 3, are prohibited from ordering from the TEX-AN contracts.

2. The centralized telecommunications system for the state of Texas is known as TEX-AN. The current technological platform of TEX-AN is known as TEX-AN 2000. The TEX-AN 2000 architecture provides a solid statewide communications infrastructure that is adaptable to changing requirements and can incorporate new and emerging technologies. The TEX-AN 2000 platform provides unified, scalable, redundant, flexible, and extremely cost-effective networking solutions. TEX-AN 2000 provides voice and data services and features:

Voice Services:

- Toll-Free Service
- Long Distance Service
- Directory Assistance
- Dedicated circuit access

Data Services:

- Frame Relay/Asynchronous Transfer Mode (ATM)
- MPLS (Multiprotocol Label Switching)
- Access Services
- Internet Access
- Point-to-Point circuits
- DSL

Vendors must utilize the TEX-AN Network for transport. These services and associated fees should be included by the vendor in a managed service solution proposal as required for a Customer. The Customer is required, as the eligible purchasing entity, to utilize the current TEX-AN or Go DIRect Contracts and procedures to directly purchase the services from DIR.

In addition to its primary services, DIR offers Go DIRect contracts for communications services. These contracts are awarded on behalf of the state according to state competitive bidding requirements, and are designed to satisfy user requirements for easy-to-use communications services contracts. The comprehensive suite of products and services offered by these contracts includes:

- Interpreter Services
- Local Telephone Services



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- Wireless/Cellular Services
- Pagers and Paging Services
- Payphone Long Distance Service
- Calling Cards

These services and associated fees should be included by the vendor in a managed service solution proposal as required for a customer. The customer is required, as the eligible purchasing entity, to utilizing the current TEX-AN or Go DIRect Contracts and procedures to directly purchase the services from DIR.

3. Vendor shall make every effort to provide value to DIR Customers through well defined requirements and project scheduling that meet the stated objectives and business goals for managed service customers. Vendors must create Statements of Work (SOW) under this Contract to document customer expectations; requirements; milestones for deliverables and activities; and payment schedules.
4. Vendor shall provide a copy of Customers proposed SOW and solution design documents to a designated contact at DIR no less than thirty days prior to presenting the final managed services solution proposal to the customer. The plan for the TEX-AN network connectivity in the solution design must be approved by DIR. The approval shall occur as soon as practicable based on the date of submission.
5. Vendor will be assigned a specific DIR liaison to facilitate the communication and management of the contract provisions outlined in this document for reviews, reporting, purchasing and approvals.
6. Vendor shall employ performance-based managed services for highly reliable customer solutions that meet or exceed customer expectations and performance metrics. Performance metrics and SLA's will meet, as a baseline, or exceed industry standards.
7. Vendor shall provide an effective and efficient management information system that provides comprehensive, accurate, and timely information on managed service solutions, program status, performance, and billing. DIR future plans may require vendors to provision an integrated management system for the visibility of performance metrics with feeds to DIR from vendor help desk systems and real time reporting tools. Future provisioning of an integrated management system will include requirements discussions between DIR and the vendor and may result in a separate scope of work and additional fees.
8. Vendor shall ensure the customer's transition to the next-generation Managed Services Solution is seamless and transparent to the Customer without disruption of existing services.

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9. Vendor shall adhere to the DIR Security Policies included in 1 TAC Chapter 202, Information Security Standards and be consistent with the best practices as outlined in the State Enterprise Security Plan, *Securing Texas Information Resources*, and published May 31, 2007. Vendor must convey the established security standards to the customer, as well as any additional vendor provided security services. The State Enterprise Security Plan and other guiding security policies are located on the DIR web site.
10. Vendor will execute a direct contract with the customer that accurately reflects the resources required for the total project and contains the resources and prices for services the customer is required to purchase directly from DIR for the successful implementation of the proposed solution (“Service Agreements”). DIR will bill the customer directly for the services purchased from TEX-AN. Vendor is responsible for preparing and properly billing the customer for its services according to milestones or other scheduled triggering events. DIR reserves the right to require the vendor to work with DIR on the future requirement to provide DIR with an electronic submission or access to customer billing records.
11. In addition to all other reporting requirements listed in Appendix A, for the Managed Services Service Agreements entered into with customers under this Contract, Vendor shall submit to the designated DIR contacts the following additional contract reports, in a format to be determined by DIR:

**A. Monthly Reports – High Probability Prospects**

- A report will be provided by the tenth calendar day of each month detailing Vendor’s prior month’s interaction with prospective Customers that have been qualified by the Vendor to be a viable prospect for services delivered under this Contract. A viable prospect is one having the intent and financial capability to purchase the solution and has at least a 75% probability of doing so within 120 days. These reports will include, but not be limited to the Customer name, Customer contact name and contact information, the initial date of engagement with the Customer, the scope of the solution including Customer requirements, the current status of the project, the next steps anticipated in the project, and the anticipated close date and confidence level.

**B. SLAs / Performance Metrics**

- SLA and Performance Metrics reporting requirements will be determined by DIR within 60 days of execution of a managed services contract between the Vendor and the individual Customer. It is anticipated that these metrics will include, but not be limited to service performance (on-time, uptime/accessibility), quality performance (accuracy), customer satisfaction, and process-level efficiency (e.g. staffing, scheduling, forecasting).

**C. Sales Activity Reports**

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- A report will be provided by the tenth calendar day of each month detailing any contracts which Vendor has executed in the prior month with Customers to provide services under this contract. This report will include, but not be limited to the date of contract execution, amount of revenue commitment under the contract, and anticipated start date of project. Also to be included in these reports are copies of all Customer executed documents.

**D. Status of Signed Projects Reports**

- A report will be provided by the tenth calendar day of each month detailing the Vendor's prior month's activity related to ongoing projects. These reports will include, but not be limited to the Customer's name, project name, project scope, Customer executive sponsor, Vendor project manager with contact information, current project phase, current project status (e.g. red, green, yellow), original key milestone projected completion dates, actual key milestone completions dates, changes in staffing, critical issues and risks. Key milestones should include, but are not limited to requirements assessment, design, development, system test, user acceptance test and deployment.

Vendor shall submit the reports in a format to be determined by DIR. The reporting formats will be provided to the vendor within sixty days after contract signing.

12. TEX-AN Next Generation

DIR will be rebidding TEX-AN in May of 2008. Any Contracts awarded from that procurement will be to replace the existing TEX-AN Contract. Part of the TEX-AN Contract(s) will allow for the awarded TEX-AN Vendor(s) to buy out any Service Agreements entered into under this Contract should Vendor not be an awarded vendor under the new TEX-AN contracts for services provided under this contract. Specific transitional language will be promulgated by DIR and must be used by Vendor in all Service Agreements with a term beyond August 31, 2009.

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This Contract is executed to be effective as of the date of last signature.

**Verizon Business Network Services, Inc.**  
**On behalf of applicable Verizon entities**

**The State of Texas, acting by and through the**  
**Department of Information Resources**

Authorized By: Signature on File

Authorized By: Signature on File

Name: Suleiman Hessami

Name: Cindy Reed

Title: VP Pricing/Contract Management

Title: Deputy Executive Director  
Operations & Statewide Technology Sourcing

Date: 06/24/08

Date: 06/27/08

Legal: Signature on File 06/27/08